



Physicians Caring for Texans

March 30, 2021

RE: House Bill 3379, relating to the duty to report child abuse and neglect

Dear Chair Frank and committee members:

My name is Debra Patt, MD, and I am an oncologist in Austin. I am also chair of the Texas Medical Association's Council on Legislation. I write to you today representing TMA, an organization of more than 55,000 physician and medical student members, on HB 3379.

Thank you for your attention to the important matter of the responsibilities of those who report suspected child abuse or neglect. TMA physicians take great care with this topic and have a significant interest in protecting the intent of the mandatory reporting requirement while also making sure that requirement is clear to those who have a duty to report.

We greatly appreciate Representative Leman, who has been most approachable on his filed legislation. TMA expressed concern with the inadvertent impact of the filed language that changes the burden of mandatory reporting of suspected child abuse and neglect from "having cause to believe" to "having credible information that causes the person to believe" abuse has occurred. "Credible information" is defined in the bill as "information supported by corroborating circumstances that clearly indicate the information's trustworthiness." This may unintentionally create a higher standard to trigger mandatory reporting, which can put a child who may be a victim of abuse or neglect at higher risk. One specific concern is that the language requires "information" *plus* additional "corroborating circumstances." This fails to take into account situations where certain information alone may be enough to put a person on reasonable notice that abuse or neglect may be occurring. This standard may also increase liability for physicians and other professionals for failing to file a report or meet a reporting deadline as they try to determine just how many "corroborating circumstances" they need.

After speaking with Representative Leman about our concerns, we understand the intent behind the legislation is really to provide guidance on when the duty to report is triggered. The current standard does not provide any guidance on what constitutes "cause," which poses similar concerns as expressed above. Therefore, we have supplied language to Representative Leman that would qualify that it must be "reasonable" cause. "Reasonableness" is well understood in Texas law – generally, it means a similarly situated person would believe there was reason to report under similar facts. Further, the language we shared states that someone cannot be criminally charged for failing to report simply because that person performs timely due diligence in good faith to determine if reasonable cause exists to trigger the reporting duty. This language may balance the interests in preserving the purpose of the mandatory reporting requirement to

protect children from abuse and neglect also providing those who have a mandatory reporting duty with some guidance on when that duty is triggered to avoid an unintended violation.

We thank you for your consideration of our comments. If you have any questions, please do not hesitate to contact Troy Alexander, director, TMA Legislative Affairs at [troy.alexander@texmed.org](mailto:troy.alexander@texmed.org) or (512) 871-9997.

Sincerely,

A handwritten signature in black ink, appearing to read 'Debra Patt', is written over a light gray rectangular background.

Debra Patt, MD  
Chair, Council on Legislation  
Texas Medical Association